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July 24, 2000

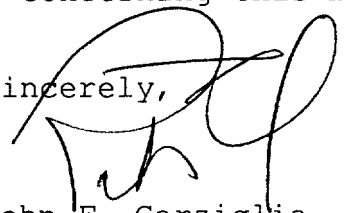
Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, D.C. 20554Re: Amendment of Section 73.202(b)
Table of Allotments
(Jackson and Salyersville, Kentucky)
MM Docket No. 00-79/ RM-9802

Dear Ms. Salas:

Transmitted herewith on behalf of Intermountain Broadcasting Company, Inc., the licensee of WJSN-FM, Channel 293A, Jackson, Kentucky, is an original and four copies of its Reply Comments in the above-referenced proceeding.

Should any questions arise concerning this matter, please contact this office directly.

Sincerely,


John F. Garziglia
Patricia M. Chuh

Enclosures

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JUL 24 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202(b)) MM Docket No. 00-79
Table of Allotments) RM-9802
FM Broadcast Stations)
(Jackson and Salyersville, KY))

To: Chief, Allocations Branch

REPLY COMMENTS

Intermountain Broadcasting Company, Inc., the licensee of WJSN-FM, Channel 293A, Jackson, Kentucky, by its attorneys, pursuant to Notice of Proposed Rule Making, DA 00-1079, MM Docket No. 00-79, released May 16, 2000 ("NPRM"), hereby submits its reply comments in support of (1) the substitution of Channel 247C2 for Channel 293A at Jackson, Kentucky and the modification of the facilities of WJSN-FM to specify operation on Channel 247C2 at Jackson, Kentucky, and (2) the substitution of Channel 293C3 for Channel 247C3 at Salyersville, Kentucky and the modification of WRLV-FM's facilities to specify operation on Channel 293C3 at Salyersville, Kentucky.^{1/} In support thereof, the following is submitted:

1. Intermountain Broadcasting Company, Inc., the licensee of WJSN-FM, and Wallingford Broadcasting Company, Inc., the licensee of WRLV-FM, each submitted timely comments in favor of

^{1/} The NPRM set July 24, 2000 as the deadline date for the submission of reply comments. Therefore, these reply comments are timely filed.

the proposed allotments, and both reaffirmed their intention to apply for the respective channels when allotted, and when authorized, to construct the proposed facilities. Also on the Comment date, Morgan County Industries, Inc. submitted "Comments in Opposition to Proposed Rule Making" ("Opposition"). As shown below, the Morgan County Industries, Inc. Opposition fails to state anything that is not already part of the record in this proceeding. Further, the legal basis for the Opposition is not supported by Commission case precedent.

2. Morgan County Industries, Inc. states in its Opposition at paragraph 3 that "there would not be coverage to the community of Jackson, Kentucky with a minimum signal of 3.16 mV/m [from the proposed WSJN-FM facilities]." Morgan County Industries, Inc. is simply incorrect in that assertion. On October 15, 1999, Intermountain Broadcasting Company, Inc. filed a Supplement to its petition for rule making providing an extensive engineering showing that, using both the FCC standard and the Longley-Rice propagation methods, WSJN-FM at the proposed reference coordinates will provide the required 70 dBu coverage to the Jackson community of license. The Supplement recognized that while there may not be line-of-sight service to the entire city of Jackson, this circumstance is due to the unusually rugged terrain both surrounding Jackson and in Jackson itself. Under existing case precedent, the proposed allotment of the upgraded Channel 247C2 to Jackson may be granted even

though line-of-sight service cannot be provided to the entire city of Jackson due to terrain obstructions. See Madison, Indiana, 14 FCC Rcd 9518 (1999) (Channel 266A allotted to Madison, Indiana where petitioner was able to show that 70 dBu signal extends beyond city of license despite lack of line-of-sight service to portions of Madison due to a terrain obstruction); Vacaville and Middletown, California, 4 FCC Rcd 8315 (1989), recon. denied, 6 FCC Rcd 143 (1991) (reference site that cannot provide line-of-sight coverage still suitable where the proponent demonstrates that the transmitted signal will exceed 70 dBu over the entire principal community).

3. Attached to these reply comments is an engineering report prepared by the Broadcast Engineering Consultants at Munn-Reese, Inc. This engineering report demonstrates that while there are terrain obstructions between the reference coordinates and the city of license, the site is close enough to the city to overcome the losses in the path and provide the requisite 70 dBu city grade signal coverage to Jackson. Because of the unusual configuration of Jackson and the terrain both within and surrounding Jackson, it is unlikely that a transmitter placed anywhere, even in the center of Jackson would provide line-of-sight to the entire city without shadowing. Under such circumstances, the Commission either has the choice of not allotting any channels to communities with rugged terrain, or in the alternative, taking the action that is more

in the public interest which is ensuring that, despite the rugged terrain, the community of license is fully covered by a 70 dBu or greater signal. While Morgan County Industries, Inc. in its Opposition states that there would not be requisite coverage to the Jackson community of license, nowhere in its engineering statement is that statement supported. Rather, the engineering statement of Morgan County Industries, Inc. simply illustrates the exceedingly rugged terrain both within and surrounding Jackson.^{2/}

There is one more interesting factor to consider in this proceeding. Morgan County Industries, Inc., the licensee of WCBJ(FM), Campton, Kentucky, itself has a transmitter site located only 3.76 kilometers from the proposed referenced coordinates for the WJSN-FM upgrade. Attached to these reply comments as Figure 2 to the Munn-Reese, Inc. engineering report is the line-of-sight path from the WCBJ(FM) antenna to the community reference coordinates in Campton, Kentucky, the WCBJ(FM) community of license. Perhaps not surprisingly, the path from the WCBJ(FM) antenna to the WCBJ(FM) community of license shows similar rugged terrain. Even more interesting, however, is the presence of several major terrain obstructions between the WCBJ(FM) antenna and the WCBJ(FM) community of license. While Intermountain Broadcasting Company, Inc. is

^{2/} In fact, the Morgan County Industries, Inc. terrain profiles labeled Exhibit E-1, Exhibit E-2 and Exhibit E-3 perhaps best illustrate the rugged terrain within Jackson itself.

certain that Morgan County Industries, Inc. serves its community with an adequate signal (the distance from the WCBJ(FM) antenna to its community of license is just about the same distance as is the proposed WJSN-FM antenna to its community of license), Figure 2 illustrates both the difficulties of locating transmitter sites in this rugged terrain with perfect line-of-sight coverage, and a certain disingenuousness on the part of Morgan County Industries, Inc. Intermountain Broadcasting Company, Inc. is certain that Morgan County Industries, Inc. would not be eager for the FCC to reevaluate whether a license for WCBJ(FM) was properly granted based upon the difficulty that WCBJ(FM) has in serving its community with a line-of-sight signal from its antenna.

6. In conclusion, Intermountain Broadcasting Company, Inc. is confident that its specified reference coordinates for Channel 247C2 at Jackson, Kentucky will enable WJSN-FM to completely serve its community of license with a 70 dBu or better signal, despite the rugged terrain in Jackson itself and the surrounding area. The public interest would be well served by the expanded service that will be provided by an upgraded WJSN-FM facility.^{3/}

^{3/} In cases where the Commission has denied an allotment based, in part, on lack of line-of-sight, there has also been the failure of the proponent to show that 70 dBu coverage would be provided despite terrain obstructions. See e.g. Eugene, Oregon, 10 FCC Rcd 9793 (1995) (proponent of the channel failed to demonstrate 70 dBu coverage of entire community of license despite terrain obstructions from proposed referenced coordinates).

WHEREFORE, for the reasons above, and for the reasons presented previously in this proceeding by Intermountain Broadcasting Company, Inc., it is respectfully requested that the Commission substitute Channel 247C2 in lieu of Channel 293A at Jackson, Kentucky and order the modification of the WJSN-FM license to specify operation on Channel 247C2; and substitute Channel 293C3 in lieu of Channel 247C3 at Salyersville, Kentucky and order the modification of the WRLV-FM license to specify operation on Channel 293C3.

Respectfully submitted,

INTERMOUNTAIN BROADCASTING COMPANY, INC.

By: 

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Patricia M. Chuh
Its Attorneys

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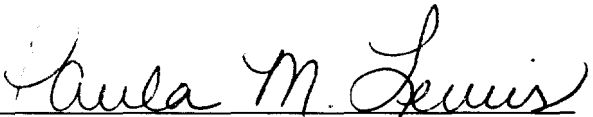
July 24, 2000

CERTIFICATE OF SERVICE

I, Paula M. Lewis, a secretary in the law firm of Pepper & Corazzini, L.L.P., do hereby certify that on this 24th day of July, 2000, copies of the foregoing Reply Comments were mailed, postage prepaid, to the following:

Mark N. Lipp, Esquire
Shook, Hardy & Bacon, LLP
600 14th Street, N.W.
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Washington, D.C. 20005
(Counsel for Wallingford Broadcasting Company, Inc.)

Leonard S. Joyce, Esquire
5335 Wisconsin Avenue, N.W.
Suite 400
Washington, DC 20015
(Counsel for Morgan County Industries, Inc.)


Paula M. Lewis

ENGINEERING REPORT

**Reply to Comments in Opposition
To Proposed Rulemaking
MM Docket No. 00-79**

**Amendment of FM Table of Allotments
At
Jackson and Salyersville, KY**

July 2000

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MUNN-REESE, INC.
Broadcast Engineering Consultants
Coldwater, MI 49036

CERTIFICATION OF ENGINEER

The firm of Munn-Reese, Inc., Broadcast Engineering Consultants, with offices at 100 Airport Drive, Coldwater, Michigan, has been retained for the purpose of preparing the technical data forming this report.

This report has been prepared by properly trained electronics specialists, under the direction of the undersigned, whose qualifications are a matter of record before the Federal Communications Commission.

The data utilized in this report was taken from the FCC Secondary Database and data on file. While this information is believed to be accurate, errors or omissions in the database and file data are possible. This firm cannot be held liable for damages as a result of those data errors or omissions.

I declare under penalty of perjury that the contents of this report are true and accurate to the best of my knowledge and belief.

July 19, 2000

MUNN-REESE, INC.

By Wayne S. Reese
Wayne S. Reese, President

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MUNN-REESE, INC.
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DISCUSSION

Page 1 of 2

This firm was retained to prepare this engineering report as part of a Reply to Comments in Opposition to Proposed Rulemaking in MM Docket No. 00-79, RM-9802, for an amendment of §73.202(b), Table of Allotments for FM Broadcast Stations at Jackson and Salyersville, Kentucky. Morgan County Industries, Inc. (Morgan) filed, through its consultant, an engineering statement regarding concerns as to whether the reference point proposed for the Jackson, KY allocation reserved for WJSN(FM) would meet the requirements of 47 C.F.R. §73.315 for line-of-sight operation to the city of license. This reply addresses those concerns.

As stated in the Amendment to the Petition for Rulemaking, a reference site for Channel 247C2 was specified at NL 37°40'19" by WL 83°24'21". The petitioner had informed the Commission that, due to rugged terrain in the area, line-of-sight could not be achieved. However, studies had been included in that petition that showed that 3.16 mV/m (70 dBu) service is provided to the community using the Longley-Rice propagation model. Morgan's consulting engineer picked three (3) bearings from the reference coordinates and plotted the terrain obstructions to the city of Jackson. This firm has carried that one step further, employing the Probe II™ software of V-Soft Communications™. The same radial azimuths, 166.5° T., 171.4° T., and 173.7° T. were plotted using the V-Soft 3-second terrain database. To each graph, Probe II has added a Longley-Rice plot to show how the terrain affects the strength of the signal along the path. Comparing each of the three bearings chosen in the Morgan engineering exhibit demonstrates that at no point between the reference point and the end of the 15 kilometer distance, chosen by Morgan's engineer in their exhibits, will the signal level fall below 70 dBu, city grade level.

In addition, a map has been prepared, labeled Figure 1, using another option of Probe II, that checked the signal level towards the City of Jackson. This study divided the entire area to be evaluated into small squares of 0.1 kilometers on a side. The signal from the proposed reference point was calculated in each of these squares, again using the Longley-Rice propagation model. A signal level of 70 dBu or greater was plotted in green. A signal level between 60 and 70 dBu was plotted in red. The city limits of Jackson have been drawn on the maps by hand, due to its irregular shape. Again, it can be easily seen that

DISCUSSION

Page 2 of 2

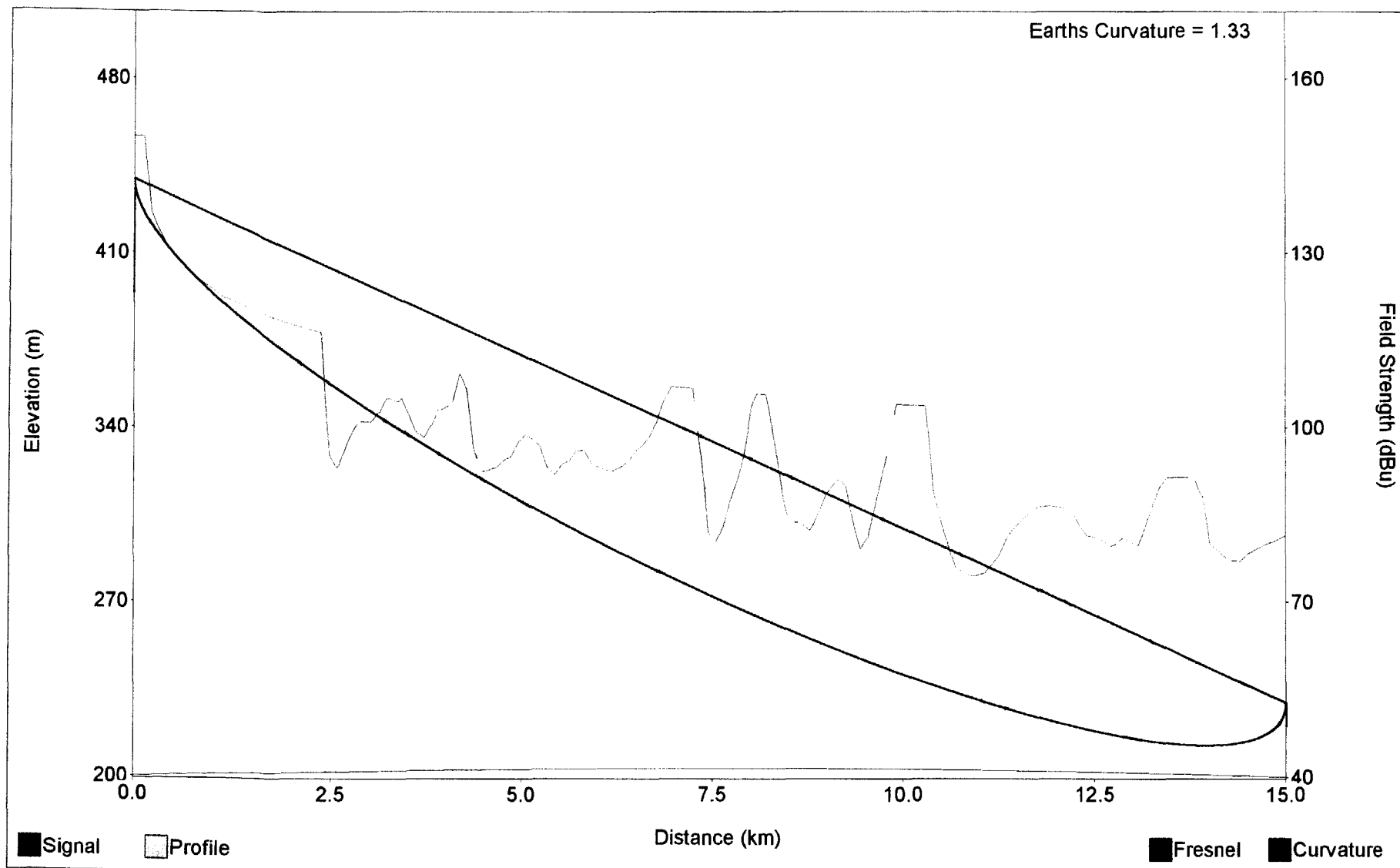
70 dBu or greater service is provided to the entire city limits of Jackson.

Therefore, these exhibits demonstrate that while there are terrain obstructions between the reference coordinates and the city of license, the site is close enough to the city to overcome the losses in the path and provides the requisite 70 dBu, city grade signal level to Jackson.

One other study that the Commission may want to consider, has to do with Morgan's licensed facility, WCBJ, Campton, KY. Its transmitter site is located only 3.76 kilometers (2.34 miles) from the proposed reference coordinates for Channel 247C2. Figure 2 is a graphical plot, using the WCBJ transmitter site coordinates, the FCC published radiation center above mean sea level (AMSL) and plotting the path to the community reference coordinates for Campton, KY shown on the FCC web site. Interestingly enough, the plot shows the same type of terrain shielding to Campton that Morgan is arguing should preclude the rulemaking for Jackson.

On the basis of the exhibits shown in these comments, along with the previous coverage demonstration, the Commission should reject the opposition arguments of Morgan County Industries, Inc. and grant the above referenced rulemaking as proposed.

Comparison with Exhibit E-1 using 0.1 km Resolution on a Bearing of 166.5° True



Starting Latitude: 37-40-19 N

Starting Longitude: 083-24-21 W

End Latitude: 37-32-25.87 N

End Longitude: 083-21-58.37 W

Distance: 15 km

Bearing: 166.5 deg

Transmitter Height (AG) = 45.4 m

Receiver Height (AG) = 9.1 m

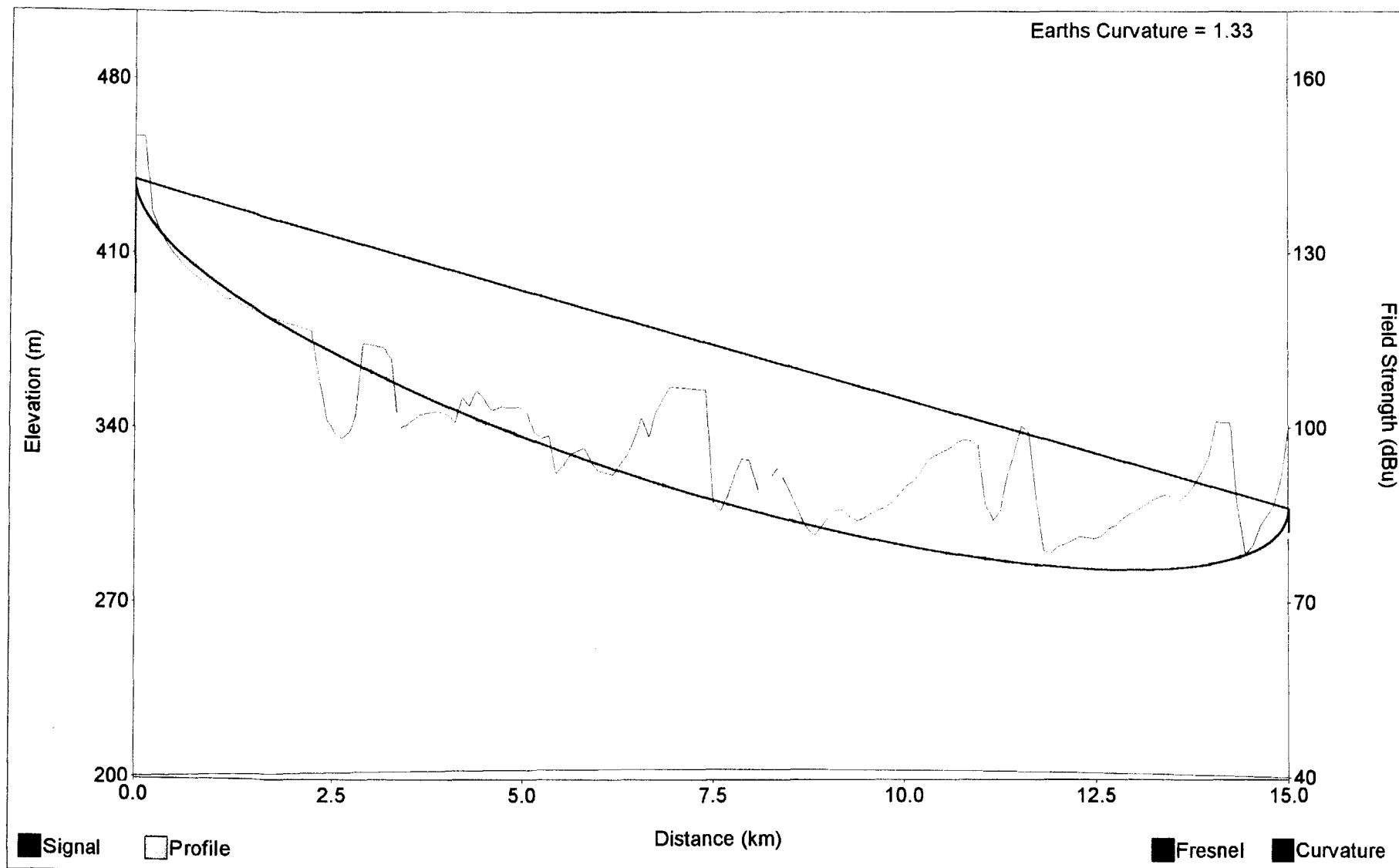
Transmitter Elevation = 394.0 m

Receiver Elevation = 220.6 m

Frequency = 97.3 MHz

Fresnel Zone: 0.6

Comparison with Exhibit E-2 using 0.1 km Resolution on a Bearing of 171.4° True



Starting Latitude: 37-40-19 N
Starting Longitude: 083-24-21 W

End Latitude: 37-32-17.92 N
End Longitude: 083-22-49.64 W

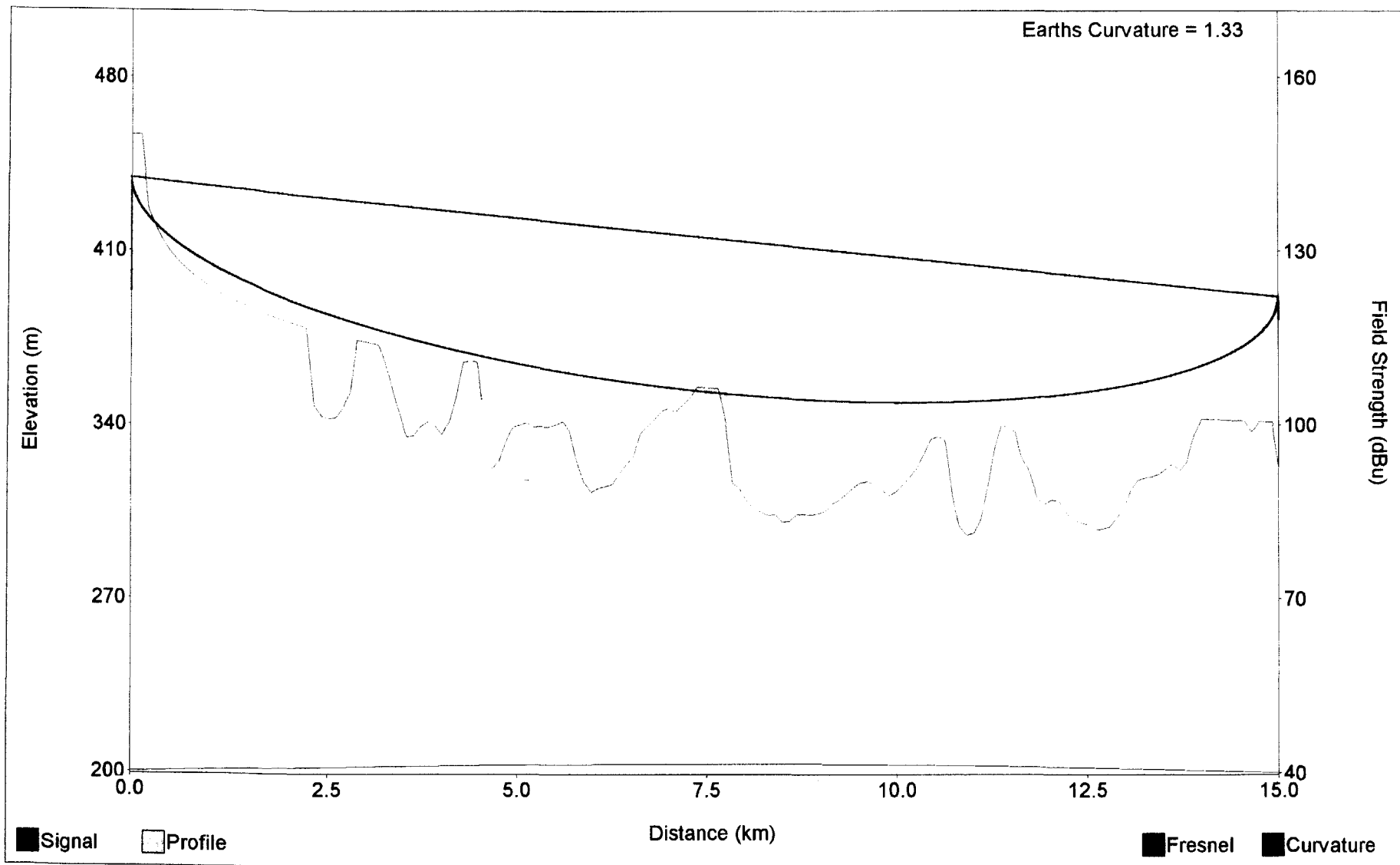
Distance: 15 km
Bearing: 171.4 deg

Transmitter Height (AG) = 45.4 m
Receiver Height (AG) = 9.1 m

Transmitter Elevation = 394.0 m
Receiver Elevation = 298.7 m

Frequency = 97.3 MHz
Fresnel Zone: 0.6

Comparison with Exhibit E-3 using 0.1 km Resolution on a Bearing of 173.7° True



Starting Latitude: 37-40-19 N

Starting Longitude: 083-24-21 W

End Latitude: 37-32-15.39 N

End Longitude: 083-23-13.96 W

Distance: 15 km

Bearing: 173.7 deg

Transmitter Height (AG) = 45.4 m

Receiver Height (AG) = 9.1 m

Transmitter Elevation = 394.0 m

Receiver Elevation = 382.6 m

Frequency = 97.3 MHz

Fresnel Zone: 0.6

Amnd Ref Pt

Latitude: 37-40-19 N
 Longitude: 083-24-21 W
 Power: 50.00 kW
 Channel: 247
 Frequency: 97.3 MHz
 AMSL Height: 466.0 m
 Elevation: 420.6 m
 Horiz. Pattern: Omni
 Vert. Pattern: No
 Prop Model: Longley/Rice
 Climate: Cont temperate
 Conductivity: 0.0050
 Dielec Const: 15.0
 Refractivity: 311.0
 Receiver Ht AG: 9.1 m
 Receiver Gain: 0 dB
 Time Variability: 50.0%
 Sit. Variability: 50.0%
 ITM Mode: Broadcast

■ >70.0 dBu
 □ 60.0 - 70.0

Longley-Rice
 Coverage Using
 0.1 km
 Resolution

FIGURE 1

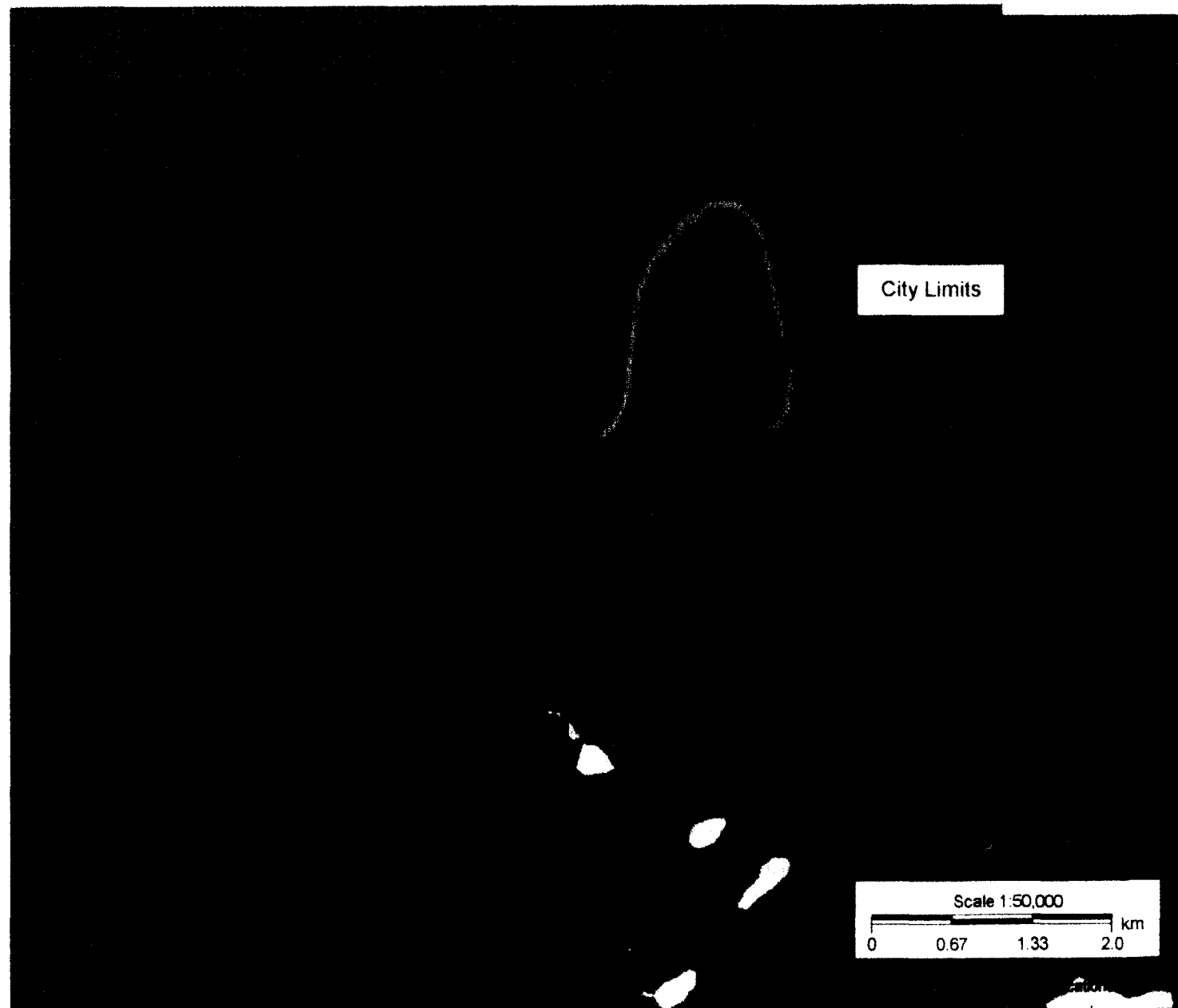
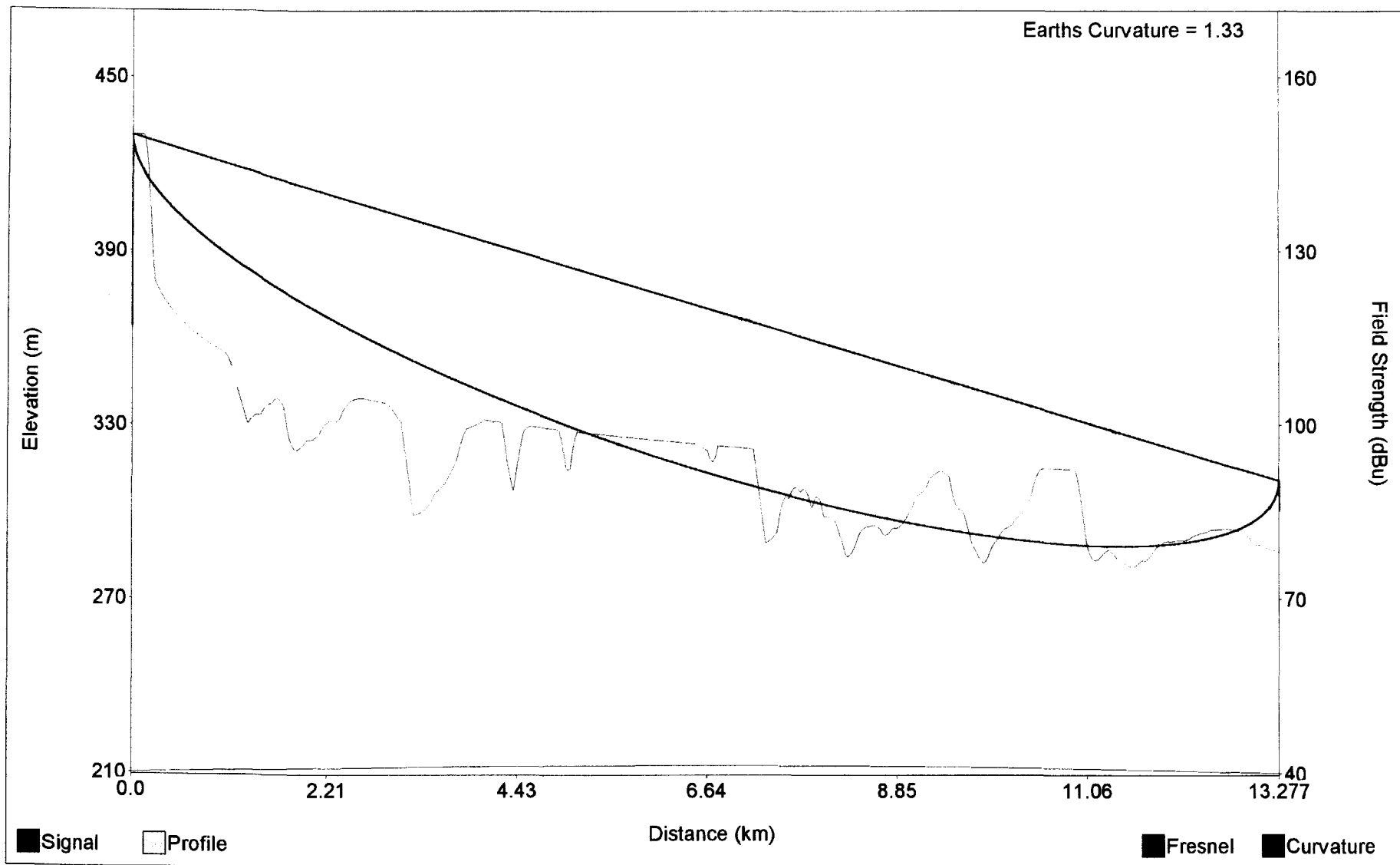


FIGURE 2 - WCBJ Antenna to FCC Community Reference Coordinates for Campton, KY



Starting Latitude: 37-39-03 N
Starting Longitude: 083-26-21 W

End Latitude: 37-44-02 N
End Longitude: 083-32-51 W

Distance: 13.276802695 km
Bearing: 314.005 deg

Transmitter Height (AG) = 65.6 m
Receiver Height (AG) = 10.0 m

Transmitter Elevation = 364.4 m
Receiver Elevation = 300.9 m

Frequency = 103.7 MHz
Fresnel Zone: 0.6